

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

SEP 30 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FREDERICK M. DISCENZO

Application No. 09/625,094

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on August 12, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellant filed an Appeal Brief on November 18, 2004 appropriately under the 41.37 *New Rules of Practice Before the BPAI*. By contrast, the Examiner's Answer mailed February 23, 2005, has been drafted under the old format (37 CFR § 1.192(c)). 37 CFR § 1.192 was abolished on September 13, 2004, and has been replaced by 37 CFR § 41.37, and as such the answer should have been drafted under the new 37 CFR section.

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Accordingly, it is

ORDERED that the application is returned to the Examiner

- 1) To vacate the Examiner's Answer mailed February 23, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 2.) to mail a copy of the corrected answer to appellant, and
- 3.) for such further action as may be appropriate.

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By:


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CF/vsh

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